

DRAFT
BOARD OF OPTOMETRY
BOARD MEETING
MAY 10, 2006

TIME AND PLACE: The meeting was called to order at 10:35 a.m. on May 10, 2006 at the Department of Health Professions, Conference Room 3, 6603 W. Broad St., Richmond, VA.

PRESIDING OFFICER: David H. Hettler, O.D, President

MEMBERS PRESENT: Paula H. Boone, O.D.
Gregory P. Jellenek, O.D.
W. Ernest Schlabach, Jr., O.D.
Jacquelyn S. Thomas, Citizen Member
William T. Tillar, O.D.

STAFF PRESENT: Emily Wingfield, Assistant Attorney General, Board Counsel
Elizabeth A. Carter, Ph.D., Executive Director for the Board
Sandra W. Ryals, Chief Deputy Director
Elaine Yeatts, Senior Regulatory Analyst
Carol Stamey, Administrative Assistant

MEMBERS ABSENT: All board members were present.

OTHERS PRESENT: Betty Graumlich, NAOO
Bill Ferguson, Board for Opticians

QUORUM: With six members of the Board present, a quorum was established.

ADOPTION OF AGENDA: There were no additions or revisions made to the agenda.

APPROVAL OF MINUTES: ◆Action On properly seconded motion by Dr. Tillar, the Board voted unanimously to approve the minutes of the February 7, 2006 meeting.

PUBLIC COMMENT: No public comment was presented.

LEGISLATIVE AND REGULATORY REPORT: **2006 Legislation**
Ms. Yeatts presented an abbreviated report of the relevant legislation passed in 2006 and also reminded the Board of the expansion of the Prescription Monitoring Program (PMP). Further, the expansion included the collection and entering of prescription data for Schedule II-IV drugs into a central database to allow for prescriber and dispenser queries. Before queries can be obtained, written consent from the patient must be received. Ms. Yeatts reported that Ralph Orr, Program Manager of PMP, is drafting a patient written

consent form for presentation to all the Boards for discussion in the fall.

Clarification of NBEO

Ms. Yeatts reported that sections 18 VAC 105-20-10, 18 VAC 105-20-15 and 18 VAC 105-20-16 of the regulations contained inconsistent language with regard to the term “National Board”. The regulations were amended to add the definition of NBEO to section 18 VAC 105-20-5 and the term NBEO was consistently referenced in sections 18 VAC 105-20-10, 18 VAC 105-20-15 and 18 VAC 105-20-16 of the optometry regulations.

◆Action On properly seconded motion by Dr. Boone, the Board voted unanimously to approve the regulatory amendments as presented.

Optometry Licensure Application

Ms. Yeatts apprised the Board that the licensure applications across all boards were being reviewed for consistency with the requirements of the regulations.

◆Action On properly seconded motion by Dr. Tillar, the Board voted unanimously to the following revisions to the optometry licensure application:

- ◆remove question number 2;
- ◆clarify question number 3 by adding “For Endorsement Only, referencing the last 36 months out of 60”, and
- ◆clarify question 17(b) by adding the language “as relevant to the requirements for licensure”.

◆Action On properly seconded motion by Dr. Boone, the Board voted unanimously that Ms. Yeatts draft a Notice of Intended Regulatory Action to fast-track the consolidation of its requirements for licensure by examination and endorsement. The draft NOIRA will be presented at the next Board meeting in August.

FAQ UPDATE:

The review and discussion of the website’s “Frequently Asked Questions (FAQ’s)” was tabled until the next Board meeting in August.

DISCUSSION ITEMS:

BHP Telehealth Regulatory Issues Update for Optometry

Dr. Carter reported that the Board of Health Professions had requested that each board review and submit feedback on telehealth issues affecting their respective practice that related to state regulation. The Board noted two items of concern: solicitation of contact lens prescriptions from out-of-state

firms and the promotion of the selling of expired contact lens prescriptions on the Internet.

Advertising Case Processing Change

Dr. Carter reported that the Board of Dentistry had approved new guidelines to speed up the processing of advertising complaints. Specifically, that the advertising cases are sent directly to the Board, prior to investigation, to determine if the advertising may be construed as false, deceptive or misleading. Cases that appear to be in compliance with the advertising statutes and regulations will be deemed non-jurisdictional and closed without further investigation. Dr. Carter noted that various Board members could be assigned the advertising cases for this initial review and guidance. The Board concurred with the Board of Dentistry's protocol for the processing of advertising complaints.

COMMITTEE REPORTS:

Professional Designation Committee

Dr. Boone reported that it was the Committee's recommendation that staff conduct a survey of all states to determine what is required relating to the use of professional designation titles or trade names, especially whether the respective board registers them. Dr. Boone also reported that the Sanction Reference Study is being scheduled for Optometry early next year and will provide an updated summary of sanctions for the various case types and the rationale behind them. She also advised that the Committee requested that the existing disciplinary matrix be updated prior to the Committee meeting again. The Committee will meet upon completion of all reports and studies.

CPT Code Committee

Ms. Wingfield advised the Board that the approval of CPT codes was not within the jurisdiction of the Board and that the guidance document should be withdrawn. It was noted that the CPT Code guidance document had been initiated over twenty years ago at the request of Medicare staff for identification of procedures that fall within the scope of practice of an optometrist in Virginia. They had suggested the use of CPT codes as universally understood "language" to reference procedures.

◆Action On properly seconded motion by Dr. Tillar, the Board voted unanimously that CPT Codes 99304 and 99310 fell within an optometrist's scope of practice. Additionally, he moved that the CPT Code guidance document be revised to delete the word "approved" and to include a disclaimer reflecting Virginia optometric scope of practice.

Request from Betty Sanchez

Staff was requested to draft a response to Ms. Sanchez informing her to consult with a coding specialist regarding the deletion of old CPT codes.

Newsletter Committee

The Committee had not met since the last meeting. However, the President has drafted a letter for dissemination to the licensees to remind them of upcoming legislative changes, the expansion of the prescription monitoring program, and other items of general interest. On properly seconded motion by Dr. Jellenek, the Board approved dissemination of the letter.

Credentials Committee

Dr. Boone reported that the Committee had reviewed six (6) applications for licensure by endorsement.

Legislative/Regulatory Review Committee

Dr. Hettler reported that there were no actions to report from the Committee.

TPA Formulary Committee

Dr. Tillar reported that the Committee will be meeting in August.

Continuing Education Committee

Ms. Yeatts and Dr. Jellenek reported that the Continuing Education Committee had met and reviewed the CE audit results, received an overview of the OETracker Program and recommended proposed amendments to 18 VAC 105-20-70 of the regulations for clarification via a Notice of Intended Regulatory Action (NOIRA). A copy of the NOIRA is incorporated into the minutes as Attachment 1.

◆ Action On properly seconded motion by Dr. Jellenek, the Board voted unanimously to accept the NOIRA with correction to the spelling of “Essilor”.

**EXECUTIVE DIRECTOR’S
REPORT:****Case Agency Standards and Other Statistics**

Dr. Carter presented a brief summary of the agency’s disciplinary performance standards and a statistical analysis of the licensee and case counts.

Budget

Dr. Carter informed the Board that due to a surplus in monies, it appeared that a one-time licensure fee reduction was in

order to align the budget. Finance will provide options for their consideration at the next Board meeting. Fee reductions regulatory amendments are exempt so a fee reduction could be in effect for the December renewal.

BHP Report

Dr. Carter apprised the Board that the Board of Health Professions was conducting a Fall Issues Forum to be held in conjunction with the Citizen Advocacy Center (CAC) national meeting in Williamsburg. Agenda topics include board member training, education policies and procedures and confidentiality issues. An agenda will be forwarded to all interested parties upon finalization.

Additionally, the Department will be conducting a study into the need for criminal background checks of licensure applicants and licensees. The Board of Health Professions will provide comment. Also, this issue will be a topic for a roundtable discussion lead by Dr. Carter and the Board of Medicine's Deputy Executive Director, Kate Nosbisch at the upcoming CLEAR Conference in Alexandria.

PRESIDENT'S REPORT:

Dr. Hettler introduced Sandra Ryals, Chief Deputy Director for the Agency.

Dr. Hettler requested that written summary reports be submitted by Board members who have been appointed to travel to conferences.

NEW BUSINESS:

No new business was presented.

ADJOURNMENT:

The Board concluded its meeting at 12:35 p.m.

David H. Hettler, O.D.
President

Elizabeth A. Carter, Ph.D.
Executive Director